

**REMARKS**

**Petition for Extension of Time Under 37 CFR 1.136(a)**

It is hereby requested that the term to respond to the Examiner's Action of February 8, 2008 be extended two months, from May 8, 2008 to July 8, 2008.

The Commissioner is hereby authorized to charge the extension fee to Deposit Account No. 50-4364, and any additional fees to Deposit Account No. 09-0457.

In the Office Action, the Examiner indicated that claims 1 through 22 are pending in the application and the Examiner rejected all of the claims.

**The §112 Rejection**

On page 2 of the Office Action, the Examiner has rejected claims 1, 9, and 16 for containing the limitation "said analysis" without proper antecedent basis, and has rejected claims 5, 13, and 20 for reciting "the present invention" without proper antecedent basis. Applicant has amended the claims to overcome these rejections, and accordingly, respectfully requests that the Examiner reconsider and withdraw the rejection of these claims under 35 U.S.C. §112, second paragraph.

**Rejection of Claims 1-22 under 35 U.S.C. §102**

On page 2 of the Office Action, the Examiner rejected claims 1-22 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Application Publication No. 2002/0062245 to Niu.

**The Present Invention**

The present invention applies gaming theory and well-understood sales processes and techniques to allow the operator of an interactive sales medium to control what is displayed to a user of the medium in a manner that signals their intentions (e.g., looking for a lower price, looking for a particular incentive, etc.) so that the “strategies” being used by the consumer can be identified and exploited. In particular, the present invention involves the identification of all selections (i.e., pathways) offered by an interactive content-delivery system (e.g., a website) and presents users of the system with incentives based on the identified probabilities. Selections or pathways less “traveled” are more heavily incentivized than are paths more frequently traveled, to “lure” users towards the less traveled selections. In a preferred embodiment, “negative incentives” (e.g., the offering of an incentive that is identified to the user as one that will be withdrawn if not acted upon within a predetermined amount of time) are presented as further encouragement for a user to take a particular pathway.

**U.S. Patent Application Publication No. 2002/0062245 to Niu**

U.S. Patent Application Publication No. 2002/0062245 to Niu (“Niu”) teaches a system for generating real-time promotions to a visitor to an e-commerce website. Niu looks at calculated probabilities that a user will (a) leave a website or (b) make a purchase on the website, to decide whether or not to generate real-time promotions to the user. In addition to the calculated probabilities, the system also uses the frequency of visits and time of visits by the user to determine if a promotion should or should not be presented to the user.

**The Cited Prior Art Does Not Anticipate the Claimed Invention**

The MPEP and case law provide the following definition of anticipation for the purposes of 35 U.S.C. §102:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (*Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987) M.P.E.P. §2131.

**The Examiner Has Not Established a *Prima Facie* Case of Anticipation**

As noted above, the present invention involves the identification of all selections (i.e., pathways) offered by an interactive content-delivery system (e.g., a website) and presents users of the system with incentives based on the identified probabilities. More specifically, as claimed, the present invention includes the steps of identifying probabilities of selection with respect to all selections offered by the interactive content-delivery system; and presenting users of the interactive content-delivery system with incentives based upon the probabilities.

Nothing in Niu teaches (or suggests) these claimed elements. Nowhere in Niu is there any discussion or disclosure of going through each selection possibility on an interactive content-delivery system (i.e., each pathway available on a website), identifying the probabilities of selection of each selection possibility, and then presenting incentives to users based on the identified probabilities. Applicant acknowledges that Niu looks at calculated probabilities that a user will (a) leave a website or (b) make a purchase on the website, to decide whether or not to generate real-time promotions to the user, and that Niu also uses the frequency of visits and time of visits by the user to determine if a promotion should or should not be presented to the user.

While this may be helpful and remotely similar to the concept claimed herein, there is in no way

any teaching or suggestion of “identifying probabilities of selection with respect to all selections offered by the interactive content-delivery system” as is claimed herein, in each of the independent claims. For this reason alone, the present invention patentably defines over Niu, and all claims (the independent claims as well as the claims depending therefrom) are in condition for allowance.

The dependent claims also add additional limitations neither taught nor suggested by Niu. For example, disclosure of the claimed use of “negative incentives” as defined in the specification is absent from Niu – nowhere does Niu teach or suggest offering a particular incentive and advising the user that failure to accept the incentive within a particular time frame will result in its being taken away or reduced. For these additional reasons, the present claimed patentably defines over Niu.

In view of the above, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 1-22 under 35 USC §102.

### **Conclusion**

The present invention is not taught or suggested by the prior art. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims. An early Notice of Allowance is earnestly solicited.

The Commissioner is hereby authorized to charge the extension fee to Deposit Account No. 50-4364 and any additional fees associated with this communication to applicant's Deposit Account No. 09-0457.

Respectfully submitted

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Date

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